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Jay Bolton

781-853-0999

P. 1

Attorney Dkt: PC-1053CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: STEPHEN D. BATTAGLINI

Serial No.: 10/027,035

Art Group: 3621

Filing Date: 12/27/2001

Which is a Continuation-In-Part of Serial No.: 09/965,510 filed 09/26/2001 which claims the benefit of priority to Provisional Application SN 60/235,782 Filed 09/26/2000

Examiner: Firmin Backer

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JAN 29 2007

For: INTEGRATED TECHNOLOGY MONEY TRANSFER SYSTEM

DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

JAY BOLTON declares that:

1. I am familiar with the present U.S. Patent Application 10/027,035 filed on 12/27/2001 which is a Continuation-In-Part of U.S. Patent Application 09/965,510 filed 09/26/2001 on which I was a co-inventor and which claims the benefit of priority to Provisional Application No. 60/235,782 filed 09/26/2000, which is titled: Integrated Technology Money Transfer System.

2. I have a Bachelor of Science Electrical Engineering Degree from Northeastern University and completed Nuclear and Electrical Engineering programs in the U.S. Navy, MIT Advanced Computer Networking program and Edify, Restrac, and other computer training programs.

I was employed by Edify Corporation, Santa Clara, CA from 1997 through 2003 as the East Coast Consulting Manager. Edify is a leader in Interactive Voice Response (IVR) and Speech "Self-Service" systems. Outside of personnel and project management, I was the Lead Technical Architect for all East Coast projects. As such, I was responsible for designing and building cutting edge financial applications taking into account human factors of these systems. These projects included Fleet Bank, Citizen's Bank, Bank North, Bloomberg, City Holding Bank, Community Trust Bank, Capital One, Spirit of America Bank, The Reserve Funds, PNC, Scudder Kemper, State Street Bank, Star Free, Virtual Bank, and Wilmington Trust. Edify applications are widely used in the financial industry for money transfers.

Currently I am the Chief Executive Officer of Integrated Voice Solutions, (IVS). IVS is a reseller of Edify products and also has a business partnership with Financial Fusion, a leader in Web banking products. We are jointly working on a voice banking product.

During my employment with Edify, I collaborated with the inventors of the application under consideration, designed, and developed the prototype. We jointly

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established a proof of concept for the money transfer system claimed in the subject application.

3. The goal of the invention under consideration is to provide apparatus, methods and systems for transferring funds between a sender and a recipient wherein the transfer of funds is not affiliated with a sales transaction between a buyer and a seller.

4. I am familiar with the final office action dated July 28, 2006 and the cited U.S. Patent Application No. US-2005/0246541 by Ginter filed on 07/07/2005 which is division application of co-pending application No. 09/632,944 filed on 08/04/2000, which is a continuation of application No. 09/221,479 filed on 12/28/1998, now U.S. Patent No. 6,185,683 and others.

Paragraphs 0716, 0722, 0724 and 0725 of Ginter cited by the Examiner teach use of the system as a "trusted go-between" via a secure communication to confirm that a buyer has in fact deposited purchase money with the escrow bank, that the funds are available, and to instruct the agent to transfer the funds to the seller's bank to release the mortgage or pay other fees required to complete a real property transaction. All four paragraphs are directed toward "a sales transaction where the seller receives payment from a buyer". More specifically, Ginter teaches a communication system to make sure that conditions have been met. The system is not used for the transfer of funds between human persons, rather, it is used to confirm, via a secure communication that the buyer or the buyer's agent has made the deposit (para. 0716), to select a lawyer and send instruction or to select and instruct an escrow bank (para. 0722), or to instruct the escrow bank to transfer funds to seller's bank (para. 0724). The system does not receive funds from a sender, hold the funds temporarily and disburse funds to the recipient. Ginter is limited to sending instructions after funds are deposited in an escrow account, pursuant to a "complex business transaction".

5. Ginter fails to teach:

- (1) A money transfer system as recited in the preamble of claims 1, 16 and 18 and as claimed in claim 27 lines 3-4.
- (2) The steps of "providing a sender account controlled by the sender" and "authorizing a transfer of the fund into an escrow agent account" as claimed in claim 1 lines 3 and 9, claim 16 lines 3 and 4, claim 18 lines 2-3 and claim 27 lines 3-4 and 10-11. Paragraph [0716] of Ginter begins with the step of confirming that the funds have previously been deposited with the escrow bank.
- (3) There is no teaching that corresponds to the sender account having available funds or to transferring funds from the sender account to the escrow bank as claimed in claim 1 lines 3-4 and 8-9, claim 16 lines 3-4, claim 18 lines 2-3 and claim 27 lines 3-11.
- (4) Ginter does not include a sender account whether it is a credit card, debit card, bank card or an ATM card as claimed in claims 12-15 and 19, and as claimed in claim 16 lines 8-9.
- (5) Ginter does not disclose use of the system for transferring funds wherein the transfer is not in response to a pre-existing transactional relationship as claimed in claim 1 lines 16-17, claim 16 lines 5-6, claim 18 lines 9-10 and claim 27 lines 4-5.
- (6) The cited Ginter paragraphs do not teach use of an ATM machine at the remote site or use of a card at the remote site by the recipient to receive the funds as claimed in claims

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4-6, 8, 20-21, 23, 24 and 26 and as claimed in claim 16 lines 10-11, claim 18 line 7 and claim 27 line 16.

6. In my opinion the methods and systems disclosed in patent application referenced in the office action would not be able to achieve a transfer of funds from a sender to a recipient without a pre-existing transactional relationship between the sender and the recipient and without a prior deposit into an escrow account.

7. In the prior art cited there was no understanding or any discussions of a fully automated, low cost, person-to-person money transfer system in which the sender, accessing a touch tone telephone or a computer modem, with the sender being an individual human person, since only an individual human person can access a touch tone telephone or a computer modem, sends money from a credit card, debit card, bank card, bank account or an ATM card to a remote distribution site to complete a money transfer virtually simultaneously, by utilizing an escrow agent controlling a bank escrow account, in reality acting as a conduit or "pass-through" for the money transfer since the money is only in escrow until it is simultaneously retrievable by the recipient as cash money at an ATM, or usable as money at a P.O.S. terminal using a credit card or ATM card, with the recipient being an individual human person since only an individual human person can utilize a magnetic stripe card at an ATM or P.O.S. terminal, and without a pre-existing transactional relationship between the sender and the recipient and transferred by means of the fully automated business process described in the subject application and as claimed in claims 1-6, 8-16, 18-24 and 26-30.

Instead, Ginter paragraphs cited teach secure methods for the transfer of information to implement a "complex business transaction" including paragraph [0716] "to confirm that the buyer and the buyer's agent have deposited a purchase money deposit with the escrow bank", in paragraph [0722] "to issue additional requirements and/or instructions to facilitate the progress of the transaction", paragraph [0724] "for loan proceed transfer to the seller's bank", and paragraph [0725] to transfer or otherwise pay appropriate commissions (emphasis added).

Ginter therefore provides for a previously created escrow deposit holding funds pursuant to a transactional basis and the subsequent release of the fund upon completion of the transactional basis. It does not provide for the creation of, or the transfer of money to, the escrow account.

8. In my opinion and based on my experience there was no understanding nor any desirability to use the secure communication method and system of Ginter for transferring funds between a sender, a human person utilizing a touch tone telephone or computer modem (which only a human person can utilize), and a recipient, a human person utilizing an ATM or point of sale terminal (which only a human person can utilize), without a pre-existing transactional relationship between the sender and the recipient.

Based on my opinion and experience in this area it would not have been anticipated by or obvious to a person of ordinary skill in the art to invent the methods and systems for transferring funds with the features claimed in claims 1-6, 8-16, 18-24 and 26-30 of the subject invention.

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9. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Dated: 12-21-06Bolton 

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APPLICANT: STEPHEN D. BATTAGLINI

Serial No.: 10/027,035

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Sir:

B. G. STARKEY declares that:

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2. I retired from Compaq which is now part of Hewlett Packard Corp.; in 1998. During my career, I had extensive contact and involvement with the Financial Industry. At Compaq I was responsible for Sales and Support for 100 large Corporate Accounts managed through four areas. Three geographic and one Financial Industry vertical plus a region support staff. Total organization of 110 employees and a shared revenue goal of \$3B for all Compaq products and services.

Tandem Computers Manufactured and Marketed Non-Stop computer systems for Companies that had the need for continuous non interrupted operation. This was particularly essential for Banks, Stock Exchanges etc. Most of the financial institutions in the U.S. and internationally, utilized Tandem computers for Money Transfers, ATM and other financial transactions. These included Bank of America, Morgan Bank, Chase Bank, Citicorp Bank, as well as Western Union's Money Transfer System. At Tandem, I was responsible for Sales and Support of Tandem products and services for the Northeast U.S. and a revenue goal of \$200M; Managed an organization of 125 employees in 4 Districts, Three Industry verticals in Banking, Securities and Teleco, and one commercial, plus a region support staff in financial and marketing support.

As Vice President, Financial LOB (1995-1996) at Tandem, I had responsibility for Sales and Support Tandem products and services for all Financial Organizations within the U.S. and annual revenue goals of \$200m+. Introduced concept of utilizing "Industry

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Intellectual Capital" and process for application solution development. Leadership of a 150 employee organization for strategic and tactical market development and increased market share. I have had experience as a business process Systems Engineer. In addition to the sales and maintenance of computer hardware, I was directly responsible for all money transfer and ATM applications.

Because of my interest in the application under consideration, I have continued to keep abreast of developments in the banking and financial industry with particular emphasis upon money transfers.

3. In the process of the research and development of the business process invention application under consideration, we utilized my experience as a business process Systems Engineer and my experience with non-stop computers and money transfer systems to collaborate with development engineers. We first engaged JB Fischer & Associates. I collaborated with engineer Jeffrey B. Fischer to determine the technical feasibility of creating the unique proprietary system and features of the business process invention under consideration. Mr. Fischer formally confirmed by opinion letter dated, March 5, 1999, that, "there are no technical barriers to implementation" and, that, "the system can be implemented for under \$2,500,000." We then engaged Edify Corporation, Santa Clara, CA, an established and proven solutions provider for the financial industry. I met and collaborated with solutions engineer Jay Bolton who developed the business process invention's "prototype" and "proof of concept" submitted by Edify Corporation pursuant to contract. I am convinced that our business process invention will work, that it is unique, and that it will provide a fully-automated, lower cost than currently available, person to person, unplanned money transfer system.

4. The goal of the invention under consideration is to provide apparatus, methods and systems for transferring funds between a sender and a recipient wherein the transfer of funds is not affiliated with a sales transaction between a buyer and a seller.

5. I am familiar with the final office action dated July 28, 2006 and the cited U.S. Patent Application No. US-2005/0246541 by Ginter filed on 07/07/2005 which is division application of co-pending application No. 09/632,944 filed on 08/04/2000, which is a continuation of application No. 09/221,479 filed on 12/28/1998, now U.S. Patent No. 6,185,683 and others.

Ginter provides for a previously created escrow deposit holding funds pursuant to a transactional basis and the subsequent release of the fund upon completion of the transactional basis. It does not provide for the creation of, or the transfer of money to, the escrow account.

Ginter also provides a business process invention which in numerous ways may be utilized to implement aspects of business transactions such as in the paragraphs cited, the transfer of a buyer's previously made deposit to the sellers bank to implement a house sale closing. There is no understanding nor any discussions in Ginter for an unplanned, and non-transactional related, money transfer system as claimed in the business process claims of the application under consideration in which a person as, for example, a parent or friend, can transfer or send money in an "emergency", from that person's home touch tone telephone, using a debit card or credit card, to another person as, for example, the sending person's son,

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daughter or friend, who can receive the money with a magnetic card at an ATM. This example is for illustration purpose and not for limitation.

Nor does Ginter provide for a person to person money transfer system which market or service has been and still is, dominated by "Western Union" and "Moneygram" which services are not automated and which require the services of human persons to implement the transfer from the sender and/or the disbursement of the money to the recipient. In 1997 when the parent company which owned both "Western Union" and "Moneygram" was found to be a monopoly and "Moneygram" was sold to the public, it was discussed in S.E.C documents that together they served approximately 97% of the U.S. to U.S., person to person, money transfer market. The other 3% also are not fully automated systems and are not similar to the subject matter claimed in the application under consideration. The subject matter claimed in the subject application offers competition in this monopolistic area of consumer services with its automated business process invention.

6. In my opinion and based on my experience there was no understanding nor any desirability to use the secure communication method and system of Ginter for transferring funds between a sender, a human person utilizing a touch tone telephone or computer modem (which only a human person can utilize), and a recipient, a human person utilizing an ATM or point of sale terminal (which only a human person can utilize), without a pre-existing transactional relationship between the sender and the recipient.

Based on my opinion and experience in this areas it would not have been anticipated by or obvious to a person of ordinary skill in the art to invent the methods and systems for transferring funds with the features claimed in claims 1-6, 8-16, 18-24 and 26-30 of the subject invention.

7. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that those statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,



B. O. Starkey

Dated: 12/21/06

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